REMARKS/ARGUMENTS

These remarks are made in response to the Office Action of September 20, 2007 (hereinafter Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. The Office is expressly authorized, however, to charge any deficiencies or credit any over-payments to Deposit Account 50-0951.

Claims Rejections – 35 USC § 103

Claims 1-2, 4, 6-8, 10, 12-14, and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,867,162 to O'Leary, *et al.* (hereinafter O'Leary), in view of U.S. Published Patent Application 2005/0010693 to Sinclair, *et al.* (hereinafter Sinclair), and further in view of U.S. Patent 5,726,688 to Siefert, *et al.* (hereinafter Siefert).

Claims 5, 11, and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over O'Leary, Sinclair, and Siefert and further in view of U.S. Patent 6,901,559 to Blum, *et al.* (hereinafter Blum).

The named inventors of the present invention respectfully declare that the present invention was conceived at least as early as May 17, 2003, which predates the earliest effective date July 9, 2003 of the reference Sinclair. A Declaration under 37 CFR 1.131 is submitted herewith for this response. Enclosed please also find "Invention Disclosure No. BOC8-2003-0072" (Exhibit A), referred to in the Declaration as collaborating evidence of conception. Evidence of conception of the subject matter of claims 1-2, 4-8, and 10 -16 can be found on page 2-5 of Exhibit A.

The critical period for which diligence must be shown is from just before 07/09/2003 (the effective date of Sinclair) until 09/17/2003 (the effective filing date of the instant application). The following documents are submitted herewith as evidence to establish diligence:

1.   Exhibit B: A letter dated June 27, 2003 from Richard A. Tomlin of Intellectual Property Law Department of the IBM Corporation to Kevin T. Cuenot of the

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law firm Akerman Senterfitt , requesting the preparation of a patent application based on the Invention Disclosure No. BOC8-2003-0072 and the filing the patent application before September 25, 2003.

2.   Exhibit C: A letter dated July 25, 2003 from Kevin T. Cuenot of Akerman Senterfitt to Richard A. Tomlin of Intellectual Property Law Department of the IBM Corporation, accepting the request.

3.   Exhibit D: An email letter dated August 27, 2003 from Valee Bartels on behalf of Kevin T. Cuenot of Akerman Senterfitt to the inventors, enclosing a draft application.

4.   Exhibit E: An email letter dated August 28, 2003 from one of the inventors James Lewis to Valee Bartels, commenting on the draft application.

5.   Exhibit F: Email letters dated August 29, 2003 and September 3, 2003 from Valee Bartels on behalf of Kevin T. Cuenot of Akerman Senterfitt to the inventors, enclosing the final draft of the patent application together formal documents to be executed by the inventor.

The above communications clearly establish the diligence of Applicants from a date prior to the effective date of Sinclair to a constructive reduction to practice of the present invention.   Accordingly, Applicants respectfully submit that their prior conception and diligence preclude Sinclair's being applied against the application.

Since all the rejections involve the reference Sinclair, Applicants believe that the claim rejections under 35 USC 103 are now moot and respectfully requests that the claim rejections under 35 USC 103 be withdrawn.

The Claims Define Over The Prior Art

Although it is believed that all the rejections under 35 USC 103 are now moot, Applicants would like to comment on the Examiner's "Response to Arguments" on page 5 of the Office Action.

It was asserted on page 5 of the Office Action:

{WP457926;2}

O'Leary does teach the arrangement of names in the list and the adjustment of the names by rearranging the variable names in section 308 as seen in col. 4, lines 41-44. O'Leary clearly teaches the sorting of variables through the repositioning of names as new items are added (col. 4, lines 41-44).

This assertion is believed to be inaccurate.

Col. 4, lines 41-44 of O'Leary provides:

Accordingly, the entries in picklist section 308 are rearranged to have the resulting expanded file name to the top of the list. The remaining file name entries are rearranged in light of the repositioning of the new top entry.

O'Leary discloses a method for removing previously opened files from the list of previously opened files - a type of list that is commonly presented in the File menu of programs such as Microsoft Word. The inventors of O'Leary did not invent this list, but rather they disclosed a new function that can give users more control over what items appear in that list. This new function has nothing to do with the present invention.

In O'Leary, a distinction is made between actions in a drop-down menu and a list of recently opened files. Items in the list of recently opened files might contain files that the user modified (e.g., created and named), but they might also include files that the user has viewed without modification, and those files might or might not have been user-created or system-created (either created by the system by some process, or present in the system when the user purchased it). While the teaching of O'Leary may appear superficially similar to present invention, it is critically different. Essentially, O'Leary shows another example of an existing type of list that can contain both user- and system-generated items, with both types of items distributed throughout the list without separation or labeling of any type - a teaching that is in direct opposition to what is

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described (separating user-named variables and giving them priority in a list) in the present invention.
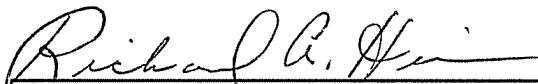
Furthermore, the method of O'Leary does not give the same type of order priority to recently-opened files that is given to user-named variables according to the present invention. The underline reasoning of the present invention is that, given a list of variables, users are more likely to want to select the variables that they have named (created), which is why the present invention presents them first (in contrast to O'Leary, in which the recently opened files have lower priority than existing system menu functions, appearing after the menu functions). Accordingly, Applicants respectfully submit that each of the claims defines over O'Leary.

CONCLUSION

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution 103(a of the subject application to completion.

Respectfully submitted,

Date: **December 20, 2007**

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